

**CONFIDENTIAL**  
**WEEKLY HOT ISSUES REPORT for RA/DRA Region 8**  
**Week Ending February 21, 2020**

**OFFICE OF THE REGIONAL ADMINISTRATOR**

**HOT ISSUES AND IMPORTANT DEADLINES:**

*No Report*

**AIR AND RADIATION DIVISION**

**HOT ISSUES AND IMPORTANT DEADLINES:**

**Meeting with Region 8 and Bruin E&P Operating on February 26, 2020**

Key Message: Region 8 ARD (with participation by ECAD and ORC) is meeting with Bruin on February 26, 2020, at the company's request to discuss air permitting on the Fort Berthold Indian Reservation (FBIR). Bruin and other companies have been seeking to avoid major source permitting thresholds using ultra-high efficiency emission controls.

- Under the FBIR Federal Implementation Plan (FIP) (40 CFR part 49, subpart K), the EPA accepts a maximum 98% control efficiency (CE) for enclosed combustors and utility flares in emission calculations.
- North Dakota Department of Environmental Quality is granting greater than 98% CE through approval letters.
- Region 8 ARD has been receiving requests for greater than 98% CE and has been responding indicating that companies will need a synthetic minor new source review (NSR) permit.

**Ex. 7(A)**

- Contacts: Claudia Smith, 312-6520; Gail Fallon, 312-6281.

**LAND, CHEMICALS AND REDEVELOPMENT DIVISION**

**HOT ISSUES AND IMPORTANT DEADLINES:**

**LAST WEEK:**

**LCRD RCRA Division Directors participated in conference call with EPA HQ's Office of Resource Conservation and Recovery to discuss State STAG Allocation Formula Changes**

Key Message: On Thursday, February 13, 2020, the LCRD directors participated in a call with HQ to discuss upcoming changes to the State and Tribal Assistance Grants (STAG) allocation formula. The STAG formula is used to determine grant funding for authorized state hazardous waste programs.

- OLEM AA Peter Wright was briefed in January 2020 on recommendations from the RCRA division directors which stemmed from a HQ/regional workgroup process which examined the components and data universes to be used within the formula. AA Wright approved all the RCRA DD recommendations except for regional discretion. AA Wright is considering whether OLEM should have a review and/or approval role in the use of regional discretion, particularly if the amount exceeds a certain threshold.
- Projected changes to the Regional total STAG funding amounts vary from a decrease of more than 12% to an increase of more than 14%. Region 8's STAG funding will see a 1.2% increase.

- Regional allocation changes are due to changes in RCRA permitting, corrective action and generator universes, an increased formula emphasis on population and increased minimum funding amounts for territories.
- OLEM plans to engage with ASTSWMO on the rollout of the new formula by the end of February. Only Regional total STAG allocations (and not state-specific allocations) will be shared.
- The formula will be phased in over a five-year period starting in FY21. The current allocation formula was issued in March 2015, replacing a formula that was implemented in FY 1996.
- Contacts: Nancy Morlock, 312-6421; Mark Smith, 312-6112.

## **LABORATORY SERVICES AND APPLIED SCIENCE DIVISION**

### **HOT ISSUES AND IMPORTANT DEADLINES:**

*No Report*

## **WATER DIVISION**

### **HOT ISSUES AND IMPORTANT DEADLINES:**

**Water Division to send letter to Utah Division of Water Quality regarding potential concern with a proposed legislative bill that would remove Utah's storm water implementation authority**

Key Message: The Water Division plans to send a letter to the Utah Division of Water Quality (DWQ) Director, Erica Gaddis, regarding potential concerns with House Bill (H.B.) 226, which is currently pending in the 2020 Utah Legislature. H.B. 226 appears inconsistent with certain federal Clean Water Act (CWA) requirements related to storm water.

# **Ex. 5 Deliberative Process (DP)**

- Legal Management Contact: Everett Volk 312-7290; Management Contact: Stephanie DeJong 312-6362

**Break in at Crow Agency Public Water System on Thursday, 2/13. There is no indication of tampering with water system treatment plants, no action taken by EPA.**

Key Message: EPA was notified on Friday, 2/14 that the Crow Agency tribal and Bureau of Indian Affairs treatment plants were broken into on Thursday 2/13. No response action was necessary by EPA.

- BIA superintendent Clifford Serawop notified Region 8 on 2/14 that the Crow Agency treatment plants were broken into on 2/13.
- Region 8 Drinking Water Program and Enforcement had a series of calls to collect information and determine whether there was any evidence of tampering with the treatment systems.
- Phone calls were conducted with BIA, plant operators, Indian Health Services, Region 8 on-call OSC, and the responding police official.

- Based on the available information the break in appears to have resulted in the theft of tools only and there was no evidence of tampering with the treatment system.
- EPA Region 8 took no additional action.
- Contact: Angelique Diaz, 312-6344

### **Tribal Consultation Offered on Revised Draft UIC Permits for Dewey Burdock**

Key Message: The Region 8 UIC program is inviting a number of interested tribal nations to consult on EPA's revised draft Class III and V permits prior to issuing final permit decisions.

- In August, 2019 EPA issued revised UIC permits for the proposed Dewey Burdock uranium ISR project in the southern Black Hills of South Dakota in response to past tribal consultation input and public comments received on its initial draft permits in 2017.
- Fifteen tribal nations have engaged EPA over the last several years expressing varying concerns about impacts to cultural and environmental resources a number of them consider sacred.
- Three Sioux tribal nations (Cheyenne River, Oglala and Standing Rock) have received invitations to consult, and the remaining 12 tribes will receive invitations this week.
- In order to ensure EPA can make timely final permit decisions later this year, EPA is requesting tribes respond by early March and informing them that consultations must be completed by April 30th.
- Contacts: Douglas Minter; 312 6079; Omar Sierra Lopez; 312 7045

### **EPA Provides Comments on the Corps of Engineers (Corps) Planned Revisions to the CWA Section 404 Nationwide Permits.**

## **Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

- Contacts: Tanya Code, 312-6110; Nolan Hahn, 312-6486

## **SUPERFUND AND EMERGENCY MANAGEMENT DIVISION**

### **HOT ISSUES AND IMPORTANT DEADLINES:**

*No Report*

## **ENFORCEMENT AND COMPLIANCE ASSURANCE DIVISION and OFFICE OF REGIONAL COUNSEL (combined)**

### **HOT ISSUES AND IMPORTANT DEADLINES:**

#### **Region 8 FIFRA Pesticide Enforcement Program Issues Notice of Refusal of Admission to Ecolab of Minnesota after attempting to import unlabeled pesticides**

Key Message: Region 8 FIFRA Imports Program denied pesticide shipment of 16,000 kilograms of the microbicide BIOC 16734A attempting to enter the U.S. through Sweetgrass, Montana.

- The Region 8 FIFRA Import Coordinator issued a Notice of Refusal of Admission (NORA) to Ecolab on February 11, 2020.
- No penalty will be issued; however, Ecolab incurred the costs of storage at the in-bond warehouse in Garland, Texas as well as the export fees.
- The shipments were denied because the pesticide totes lacked the required federal pesticide labels.
- Technical Contact: Christine Tokarz, 312-6147; Management Contact: David Cobb, 312-6592

#### **SDWA Enforcement Section issued an Administrative Order Violation (AOV) to Keith and Betty Troll regarding the Arvada Mobile Home Park Public System located in Sheridan County, Wyoming**

Key Message: The AOV is expected to be issued the week of February 18, 2020. Alleged violations of the Order include failure to complete corrective action of significant deficiencies within 90 days of the Order, failure to develop a written total coliform sample siting plan within 30 days of the Order, failure to monitor for total coliform bacteria during December 2019, and failure to notify the public of certain violations in the Order within 30 days.

- The AO was issued on October 10, 2019.
- To date no evidence has been received that any of the corrective actions have been completed.
- The System serves approximately 29 individuals at least 60 days out of the year.
- EPA is taking this action because the State of Wyoming does not have delegation.
- Technical Contact: Christina Carballal, 312-6046; Legal Contact: Matt Castelli, 312-6491; Management Contact: Tiffany Cantor, 312-6521

## **MISSION SUPPORT DIVISION**

### **HOT ISSUES AND IMPORTANT DEADLINES:**

*No Report*